

Supreme Court of Florida

No. SC17-699

WILLIAM EARL SWEET,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[January 24, 2018]

PER CURIAM.

We have for review William Earl Sweet's appeal of the circuit court's order denying Sweet's motion filed pursuant to Florida Rule of Criminal Procedure 3.851. This Court has jurisdiction. See art. V, § 3(b)(1), Fla. Const.

Sweet's motion sought relief pursuant to the United States Supreme Court's decision in Hurst v. Florida, 136 S. Ct. 616 (2016), and our decision on remand in Hurst v. State (Hurst), 202 So. 3d 40 (Fla. 2016), cert. denied, 137 S. Ct. 2161 (2017). This Court stayed Sweet's appeal pending the disposition of Hitchcock v. State, 226 So. 3d 216 (Fla. 2017), cert. denied, 138 S. Ct. 513 (2017). After this

Court decided Hitchcock, Sweet responded to this Court's order to show cause arguing why Hitchcock should not be dispositive in this case.

After reviewing Sweet's response to the order to show cause, as well as the State's arguments in reply, we conclude that Sweet is not entitled to relief. Sweet was sentenced to death following a jury's recommendation for death by a vote of ten to two. Sweet v. State, 624 So. 2d 1138, 1139 (Fla. 1993). Sweet's sentence of death became final in 1994. Sweet v. Florida, 510 U.S. 1170 (1994). Thus, Hurst does not apply retroactively to Sweet's sentence of death. See Hitchcock, 226 So. 3d at 217. Accordingly, we affirm the denial of Sweet's motion.

The Court having carefully considered all arguments raised by Sweet, we caution that any rehearing motion containing reargument will be stricken. It is so ordered.

LABARGA, C.J., and QUINCE, POLSTON, and LAWSON, JJ., concur.
PARIENTE, J., concurs in result with an opinion.
LEWIS and CANADY, JJ., concur in result.

PARIENTE, J., concurring in result.

I concur in result because I recognize that this Court's opinion in Hitchcock v. State, 226 So. 3d 216 (Fla. 2017), cert. denied, 2017 WL 4355572 (U.S. Dec. 4, 2017), is now final. However, I continue to adhere to the views expressed in my dissenting opinion in Hitchcock.

An Appeal from the Circuit Court in and for Duval County,

Angela M. Cox, Judge - Case No. 161991CF002899AXXXMA

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